



Department of Justice

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EIGHT LONG ISLAND HOSPITALS AGREE TO STOP PREVENTING DISCOUNTS ON HOSPITAL SERVICES

WASHINGTON, D.C. -- The Department of Justice today accused eight Long Island, N.Y., hospitals of setting up an organization to jointly resist cost-cutting efforts by health maintenance organizations and managed care plans. The lawsuit was filed in U.S. District Court in Brooklyn, New York, along with a proposed settlement between the hospital and the government which would resolve the matter, if approved by the court.

The eight hospitals are North Shore University Hospital, North Shore University Hospital at Glen Cove, Brookhaven Memorial Hospital Medical Center, Central Suffolk Hospital, Good Samaritan Hospital, Huntington Hospital, John T. Mather Memorial Hospital and South Nassau Communities Hospital.

The Justice Department's Antitrust Division said the hospitals formed an organization, Classic Care Network, Inc. in 1991 when HMOs in Long Island began approaching individual hospitals to obtain discounts. Classic Care acted as the hospitals' exclusive bargaining agent. Among other things, the

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arrangement ensured that all HMO agreements were approved by the other members of the group.

"The importance of competition to lowering prices, improving quality and encouraging innovation in health care markets cannot be overstated," said Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division. "Health care consumers, through their memberships in HMOs and managed care plans, rely on competition between hospitals to obtain favorable prices for hospital services and lower health insurance premiums. This administration will enforce the antitrust laws to challenge any arrangement between competing health care providers that has the purpose or effect of reducing competition or raising prices for health care services."

Although characterized as merely assisting each member in negotiations with HMOs and managed care plans, Classic Care actually sought to deter discounting on inpatient hospital services and coordinate the hospitals' responses to a variety of price negotiations, including discounts for outpatient services, the Department said.

In addition to their efforts to prevent discounting, the hospitals, through Classic Care, agreed to prohibit per diem pricing in HMO contracts, a pricing mechanism the Department said can lower hospital costs through improved patient management and shorter hospitalization. The Classic Care hospitals also agreed to adopt one payer's most favored nation clause for the

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reimbursement of outpatient services, thus limiting any future discounts to that rate only.

"This is an extremely important settlement for healthcare consumers. It promotes competition between hospitals on Long Island that seek to provide care for patients enrolled in HMOs and managed care plans," Bingaman said. "It also protects consumers from joint efforts by hospital providers to prevent discounting on hospital rates and other forms of price competition that we lead to lower healthcare costs," she added.

The proposed consent decree prevented the Classic Care hospitals from engaging in any further efforts to prevent hospital discounts or using Classic Care as a joint sales agent.

The consent decree prohibits the Classic Care hospitals from:

- Entering into agreements with other hospitals relating to the selection of contracting third-party payers.
- Entering into any agreement with another Long Island hospital concerning the terms or amounts of any fee or price term to a third-party payer.
- Entering into agreements with other hospitals relating to the utilization of per diem-based fees in contracts with third-party payers.
- Communicating any negotiated fee to another hospital in the Long Island area.
- Utilizing the Classic Care Network or any other agent to determine any hospital's fees.

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The proposed decree also prohibits Classic Care from:

- Entering into any agreement with any hospital in Long Island concerning the terms or amounts of any fee charged to a third-party payer.
- Entering into any agreement with any hospital in Long Island to hold itself out as an exclusive negotiating agent for that hospital.
- Developing, adopting or distributing any fee schedule for use with any third-party payer.
- Recommending that any hospital withdraw from or refuse to enter into any agreement with a third-party payer.

The proposed decree, if approved by the court, would be in effect for five years.

As required by the Tunney Act, the proposed consent decree, along with the Department's competitive impact statement, will be published in the Federal Register. Any person may submit written comments concerning the proposed decree during the 60-day comment period to Ralph T. Giordano, Chief, New York Field Office, Antitrust Division, U.S. Department of Justice, 26 Federal Plaza, Room 3630, New York, N.Y. 10278 (212) 264-0390.

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